

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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First Named Inventor: Woodhams	
Application No.: 10/549,552	Group Art Unit: 3654
Filed: 03/20/2006	Examiner: Thomas J Braham
Title: Improvements in or relating to stairlifts	Confirmation No: 3865
Attorney Docket No.: URQU.P-018	
Customer No.: 57381	

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**BRIEF FOR APPELLANT**

This brief is filed in support of Applicants' Notice of Appeal filed on May 1, 2009 in view of the final office action mailed December 2, 2008. Consideration of the application and reversal of the rejections are respectfully urged.

Real Party in Interest

The real party in interest is Stannah Stairlifts Limited.

Related Appeals and Interferences

To Applicants' knowledge there are no related appeals or interferences.

Status of Claims

Claims 1, 2, 4, 5, 7, 10, 11, 12, 13, and 15 are pending, rejected, and herein appealed. Claims 3, 6, 8, 9, 14, and 16-21 are canceled.

Status of Amendments

The amendment filed on May 1, 2009 has not been entered.

Summary of Claimed Subject Matter

The claims of the present invention relate to control interfaces (e.g. hand controls) for stairlifts that can transport a passenger up and down a set of stairs (Page 1 lines 3-4). There are two independent claims, 1 and 12. Claim 1 claims a stairlift chair having a pair of armrests (Page 8 line 16, 14a and 14b in Figs. 1 and 2). Each of the armrests have an upper surface (Page 10 line 4, 23 in Figs. 3 and 4). A hand control (15 in Figs.) is mounted on one of said armrests and is displaceable with respect to the armrest on which it is mounted to effect movement of a stairlift on which the stairlift chair is mounted (page 10 lines 15-25). Claim 2 indicates that the hand control is pivotable with respect to the armrest about a substantially vertical pivot axis (Page 9 lines 20-23). In normal use, the hand control is angled upwardly out of a plane defined by the upper surface of the armrest to which it is attached (Page 10 lines 5-7, Figs. 1, 3, 9, and 10). The hand control has a substantially planar (page 9 line 25) palm contacting surface which forms a substantial extension of the plane of said upper surface the armrest to which it is mounted (Page 10 lines 2-5, Figs. 3, 9, and 10).

Claim 12 claims a stairlift comprising a stairlift chair (Page 1 lines 3-4). The chair has a pair of armrests (Page 8 line 16, 14a and 14b in Figs. 1 and 2) and a manually engageable and displaceable hand control (15 in Figs.) mounted on one of said armrests and being displaceable with respect to the armrest on which it is mounted to effect movement of said stairlift (page 10 lines 15-25). The hand control includes a body member (15 in Figs.) engageable by a user's hand. The body member is formed in two parts (page 11 lines 14-16, 37 and 38 in Figs 5-7). The two parts are displaceable with respect to one another such that, in a first configuration of said two parts, said hand control is inactive (Page 11 lines 16-19).

Grounds of Rejection to be reviewed on Appeal

(1) Claims 10 and 11 are rejected under 112, first paragraph.

(2) Claims 1, 2, 4, 5, 7, 10, 11, and 15 are rejected under 112, second paragraph.

- (3) Claim 1 is rejected as anticipated under 102(b) in view of Decelles (US 4,790,548).
- (4) Claim 1 is rejected as anticipated under 102(b) in view of Ooms (EP 1035065).
- (5) Claims 1, 4, and 10 are rejected as anticipated under 102(b) in view of Watkins (US 5,248,007).
- (6) Claims 12 and 13 are rejected as anticipated under 102(b) in view of Tasker (GB 2367807).
- (7) Claims 12 and 13 are rejected as anticipated under 102(b) in view of Voves (US 4,913,264).
- (8) Claim 2 is rejected as obvious under 103(a) over Ooms in view of Altorf (EP 0915052).
- (9) Claim 2 is rejected as obvious under 103(a) over Watkins in view of Altorf.
- (10) Claim 5 is rejected as obvious under 103(a) over Ooms in view of Grippi (D245,326).
- (11) Claim 5 is rejected as obvious under 103(a) over Watkins in view of Grippi.
- (12) Claims 7, 12, and 13 are rejected as obvious under 103(a) over Ooms in view of Grippi.
- (13) Claim 11 is rejected as obvious under 103(a) over Ooms.
- (14) Claim 11 is rejected as obvious under 103(a) over Decelles.
- (15) Claim 15 is rejected as obvious under 103(a) over Watkins in view of Muranka (US 6,679,353).

(16) Claim 15 is rejected as obvious under 103(a) over Ooms in view of Muranka.

Argument

The Examiner makes numerous rejections to the claims. Applicants submit that these rejections are made in clear error and that the Board should overturn them. The individual rejections (e.g. (1) - (16) listed above) are addressed below. Applicants respectfully request the Board to address all of the rejections made to the claims.

**Preliminary Remarks:**

The present application claims hand control interfaces for passenger chairs located on stairlifts. Stairlifts are used to transport passengers up and down staircases. Typically stairlifts are located in a person's home or workplace to aid in the quality of life of people with limited mobility. People with limited mobility often have physical impairments which limit their ability to manipulate objects including hand controls found on stairlift chairs of the past. The present invention provides these limited mobility and limited dexterity passengers with the ability easily and correctly operate a hand control device to ensure a safe ride on the stairlift.

There are two independent claims in the present application, claims 1 and 12. Claim 1 is provided below and includes callout numbers shown in Fig. 3, which is also provided below.

1. A stairlift chair including a pair of armrests, each of the said armrests having an upper surface (23); and a hand control (15) mounted on one of said armrests (14a) and being displaceable with respect to the armrest (14a) on which the hand control is mounted to effect movement of a stairlift on which the stairlift chair is mounted, wherein said hand control (15) is, in normal use, angled upwardly out of a plane defined by the upper surface (23) of the armrest (14a) to which said hand control (15) is attached, said hand control (15) having a substantially planar palm contacting surface (27) which forms a substantial extension of the plane of said upper surface (23) the armrest (14a) to which said hand control is mounted.

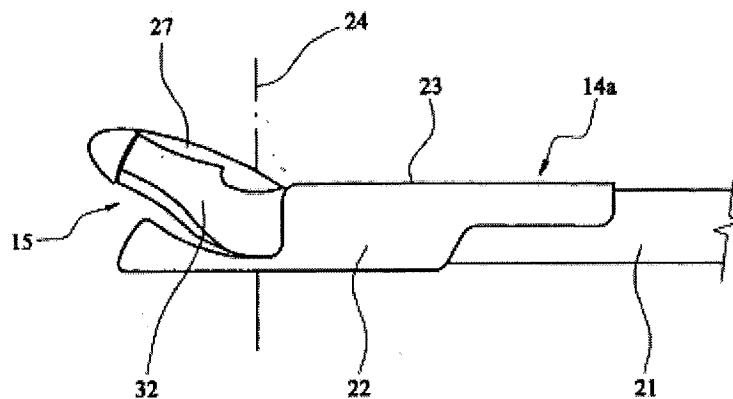


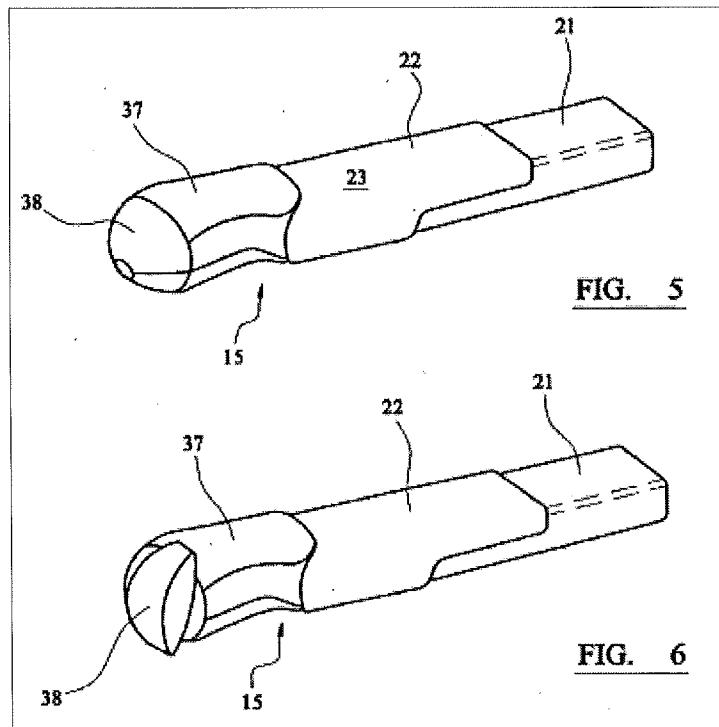
FIG. 3

Claim 2 specifies that the hand control is pivotable about a substantially vertical pivot axis (24). Claim 10 specifies that control (15) has side surfaces (32) for smooth contact with a user's hand. As shown in Fig. 3 and the balance of figures the palm contacting surface is substantially planar. The term "substantially planar" as shown in these figures and defined on page 9 lines 24 to 25, is

a term used in the art, and means slightly curved. The upper surface is “substantially planar” or in other words “slight curved” to be comfortably received in a user’s hand.

Claim 12 reads, including callouts from Figures 5 and 6 which are provided below, as follows:

12. A stairlift comprising a stairlift chair, said chair having a pair of armrests; a manually engageable and displaceable hand control (15) mounted on one of said armrests and being displaceable with respect to the armrest on which it is mounted to effect movement of said stairlift, said hand control (15) including a body member engageable by a user's hand wherein said body member is formed in two parts (37 and 38) which are displaceable with respect to one another such that, in a first configuration of said two parts, said hand control is inactive.



**The 112, first and second paragraph rejections:**

As a first matter, Applicants submit that in making the 112, first and second paragraph, rejections the Examiner is unduly overreaching in his attempts to perceive deficiencies with claim language. Applicants remind the Board that it is the Examiner's job to determine the level of skill of an average artisan and to examine the application and claims from this viewpoint. Applicants submit that all of the Examiner's 112 rejections are made in error and that the Board should overturn them.

***(1): The 112, first paragraph, rejections:***

The Examiner indicates that the specification fails to provide a basis for the subject matter of claims 10 and 11. This assertion is based upon fiction and is clearly in error. These claims read:

10. The stairlift chair of claim 1, where the hand control further comprises side surfaces (32 in Fig. 3 above) configured to permit smooth contact by the side of a user's hand.

11. The stairlift chair of claim 1, wherein said palm contacting surface (37 in Fig. 3) is constructed and arranged to underlie at least 50% of the area of a user's palm.

With regard to the rejection of claim 10 Applicants draw the Board's attention to page 10 lines 8 and 9, page 10 lines 19 to 24, and to Figs. 3, 9, and 10 of the application as filed. Here it is clearly described and shown that in certain preferred embodiments the hand control has side surfaces to provide smooth contact with the side of a user's hand.

With regard to the rejection of claim 11 Applicants' draw the Board's attention to page 10 lines 25 to 26 as well as to Fig. 8 of the application as filed. Here it is clearly described and shown that in certain preferred embodiments the palm contacting surface of the hand control underlies at least 50% of the area of a user's palm.

Applicants therefore submit that the Examiner's 112, second paragraph, rejections are clearly in error and the Board should reverse them.

***(2): The 112, second paragraph, rejections:***

The crux of these rejections is found in the Examiner's rejection of claims 1, 2, 4, 5, 7, 10, 11, and 15 found at paragraph (7) of the final office action. Applicants submit that in a teleconference with the Examiner conducted after the final office action on June 11, 2009, the Examiner admitted that he had misread/misinterpreted limitations of these claims and that he would enter and reconsider for allowance a response to the final office action if we presented it with an amendment cancelling claims 12 and 13. Applicants decided against filing this paper as the cancellation of claims 12 and 13 was not warranted by the Examiner's citation of art and reasons for rejection in the final rejection.

The Examiner rejects claim 1 under 112, second paragraph, indicating that it is not clear how the hand control forms a "substantial extension" of the armrest. Applicants again submit that the Examiner is unreasonably overreaching in his rejection of this language in claim 1. This language is widely accepted in the art and is defined throughout the specification (e.g. page 9 line 24 to page 10 line 7, *inter alia*) and shown in the Figures. For example looking at Figs. 8, 9, and 10, the hand control is formed to be a natural extension of the armrest's upper surface and where a user's arm is simultaneously and comfortably supported by the armrest and the hand control without point loading whilst the user is operating the stairlift. There is nothing indefinite about this.

The Examiner rejected claim 5 for a lack of antecedent basis for "said control interface". This rejection is proper and Applicants will amend the claim accordingly when the case is returned to the Examiner.

The Examiner rejects claim 10 asserting that it is unclear as to how the embodiment with a "planar" palm contacting surface could also have side surfaces. As a first matter, this is not how the claims and specification read. Applicants specification, drawings, and claims specify that the palm contacting surface is a "substantially planar" (e.g. slightly curved) surface. As

described above with regard to the 112, first paragraph, rejections the side surfaces (32) extend downward from this palm contacting surfaces so as to permit smooth interaction with the side of a user's hand. There is nothing indefinite about this.

The Examiner lastly rejects claim 11 indicating that it is unclear how the "planar" palm contacting surface underlies at least 50% of a user's palm. Again the specification, figures, and claims indicate that the palm contacting surface is "substantially planar" meaning that the surface is slightly curved so as to be comfortably received in a user's palm. The specification clearly describes and Fig. 8 clearly shows that the palm contacting surface underlies "at least 50% of the area of a user's palm." Again, there is nothing indefinite about this limitation.

Applicants therefore submit that the Examiner's 112, second paragraph, rejections are clearly in error and the Board should reverse them.

### **The 102(b) Rejections:**

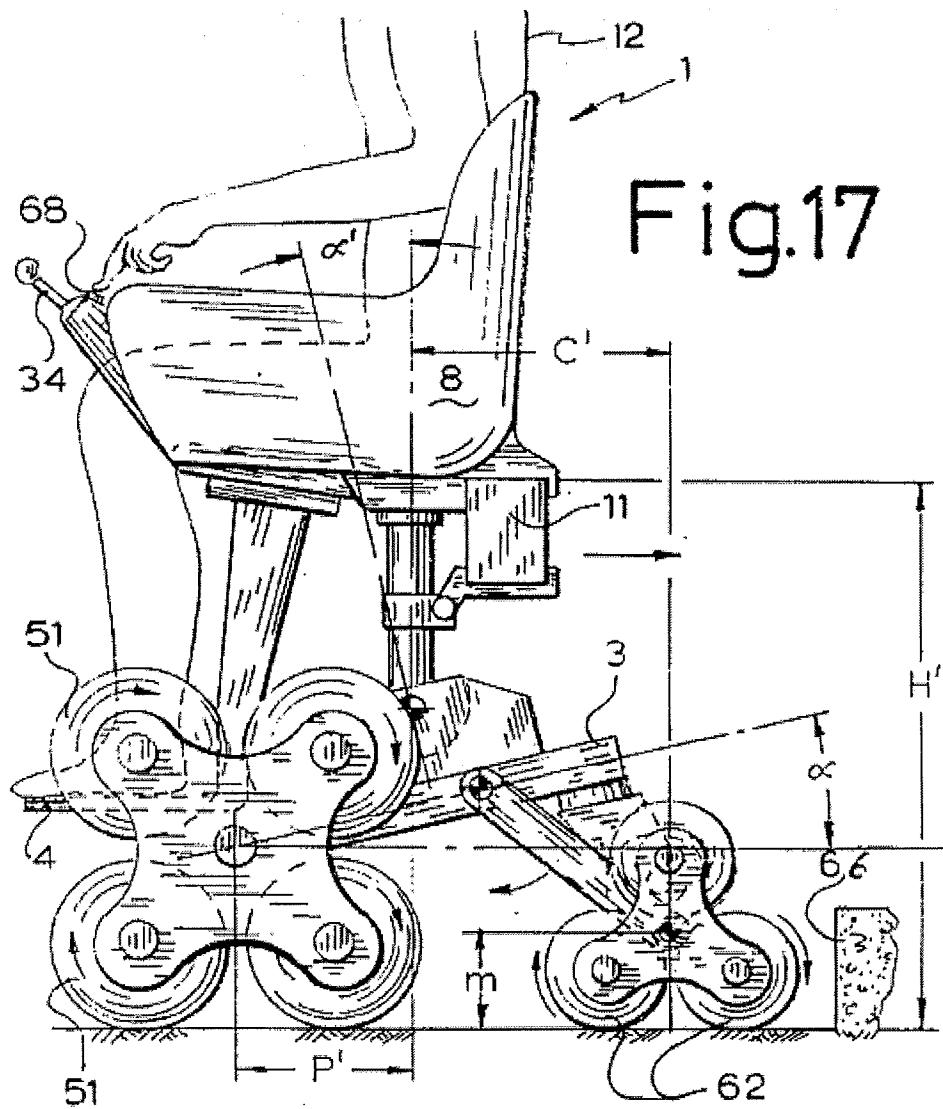
Applicants remind the Board that for a claim to be anticipated each and every limitation of that claim must be disclosed within a single prior art reference in the manner that it is claimed. According to MPEP section 706.02, for anticipation under 102, the cited reference must teach **every aspect of the claimed invention either explicitly or implicitly.** "Moreover, it is **incumbent upon the Examiner** to identify where in each and every facet of the claimed invention is disclosed in the applied reference." *Ex parte Levy*, 17 USPQ2d 1461, 1462 (POBAI 2003).

### **(3) - (5): The 102(b) rejections of claim 1.**

The Examiner rejects claim 1, and optionally dependent claims, under 102(b) in view of any of three references including Decelles, Ooms, or Watkins. Applicants submit that the Examiner's rejections are made in clear error and that the Board should reverse the Examiner's rejections.

*Decelles:*

The Examiner rejects claim 1 under 102(b) in view of Decelles. The Examiner indicates that button 68 of Decelles provides all of the limitations of the hand control of claim 1. This is clearly incorrect. Button 68 is shown in Fig. 17 and it clearly does not meet the limitations of the hand control as presently claimed.



If button 68 is deemed to be a 'hand control' within the meaning of claim 1, then it is does not form a substantial extension of the armrest and it is not angled upwardly out of a plane defined by the upper surface of the armrest as is required by the claim. Button 68 clearly lies below the plane defined by the upper surface of the armrest and is not positioned to support the hand of the user when the user's forearm is supported by the armrest.

Further, Decelles does not show button 68 as having a palm contacting surface. Quite to the contrary, Decelles' Fig. 17 indicates button 68 being operated by the tip of a user's finger. There is nothing in Decelles to suggest that the user's palm could be engaged with the button 68 while the arm was simultaneously resting on the armrest. Lastly, push button 68 is indicated as a button used to initiate a climbing motor and wheels, it does not indicate that this button is used to "effect movement" of the device. It appears that joystick 34 is used for this purpose.

Therefore, the Examiner's 102(b) rejection of claim 1 in view of Decelles is in clear error and must be reversed.

*Ooms:*

The Examiner also rejects claim 1 under 102(b) in view of Ooms. The Examiner indicates that control knob (35) provides all of the limitations of the hand control of claim 1. This is clearly incorrect. Control knob (35) is shown in Fig. 1 and it clearly does not meet the limitations of the hand control as presently claimed.

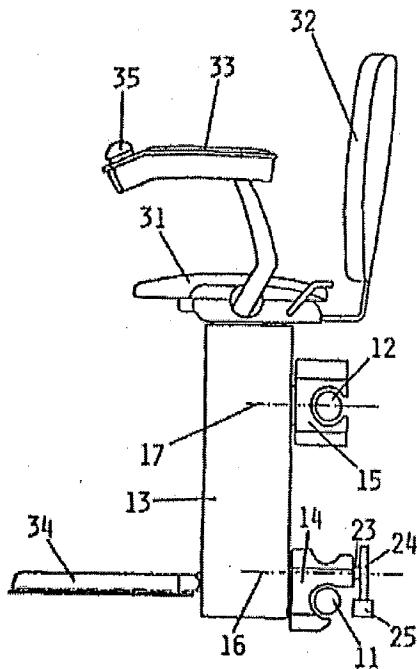


FIG.3

First, Ooms' control knob (35) is clearly not formed as a substantial extension the armrest's upper surface nor is it angled upwardly through this plane as such limitations are shown, described, and claimed in the present application. Furthermore, Ooms makes no mention that the knob (35) is "displaceable" with respect to the armrest to effect movement of the device. Ooms just indicates that the control knob is present as shown and makes no mention regarding the operational movement thereof to include displacement with respect to the armrest.

The present invention was developed, in part, to avoid the high point loadings which can be imposed on a user's hand by controls of the type shown in Ooms. Furthermore, the present invention was developed to prevent accidental activation of the hand control and therefore unwanted movement of the device, particularly when getting onto, and off, the stairlift which can occur from the use of the control knobs of Ooms.

*Watkins:*

The Examiner rejects claims 1, 4, and 10 under 102(b) in view of Watkins. The Examiner indicates that push buttons (30) on console (18) meet all of the limitations of the hand control of claim 1. Again, this is clearly incorrect. Fig. 1A, reproduced below, shows console (18) and Joystick (16). Buttons (30) are located on console (18) and these buttons clearly do not meet the limitations of the hand control of claim 1.

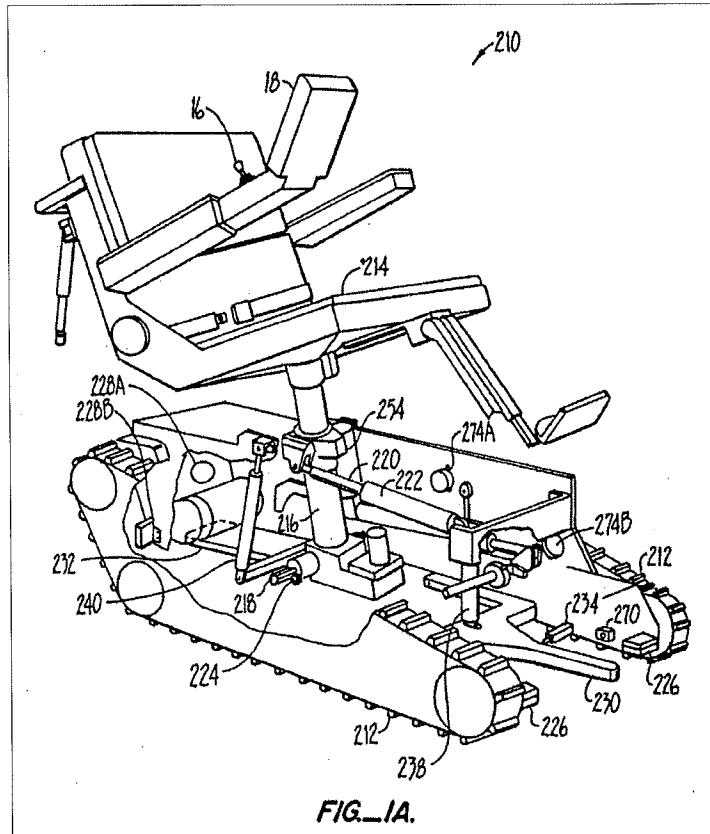


FIG. 1A.

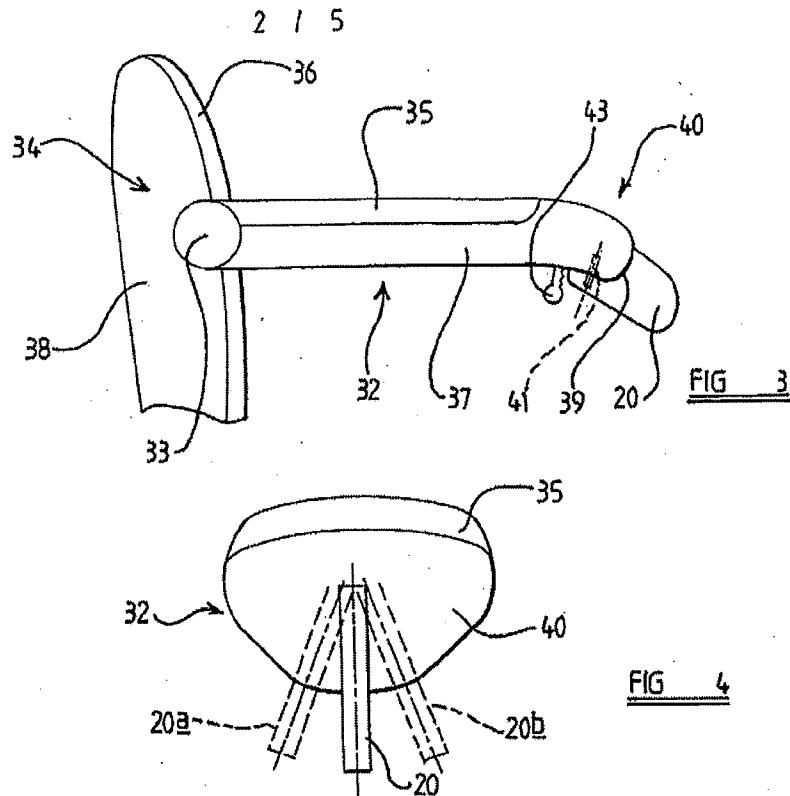
Joystick (16) is clearly provided to effect movement of the device, not push buttons (30). Furthermore, Watkins provides no indication that the push buttons form a substantial extension of the upper surface of the armrest or even that they are engageable by the palm of a user. Therefore, the Examiner's 102(b) rejection of claim 1 in view of Watkins is clearly incorrect and should be overturned.

***(6) - (7): The 102(b) rejections of claims 12 and 13.***

The Examiner rejects claims 12 and 13 under 102(b) in view of either Tasker or Voves. Applicants submit that the Examiner's rejections are made in clear error and that the Board should reverse them.

*Tasker:*

The Examiner rejects claims 12 and 13 under 102(b) in view of Tasker. Present claim 12 recites that the hand control (which effects movement of the stairlift by displacement relative to the armrest) must be formed in two parts which together are displaceable with respect to the armrest to effect movement of the device, yet themselves are displaceable with respect to one another. The Examiner indicates that the control (20) of tasker meets these limitations. This is clearly incorrect. Takser's Figs 3 and 4, which are reproduced below, shows hand control (20).



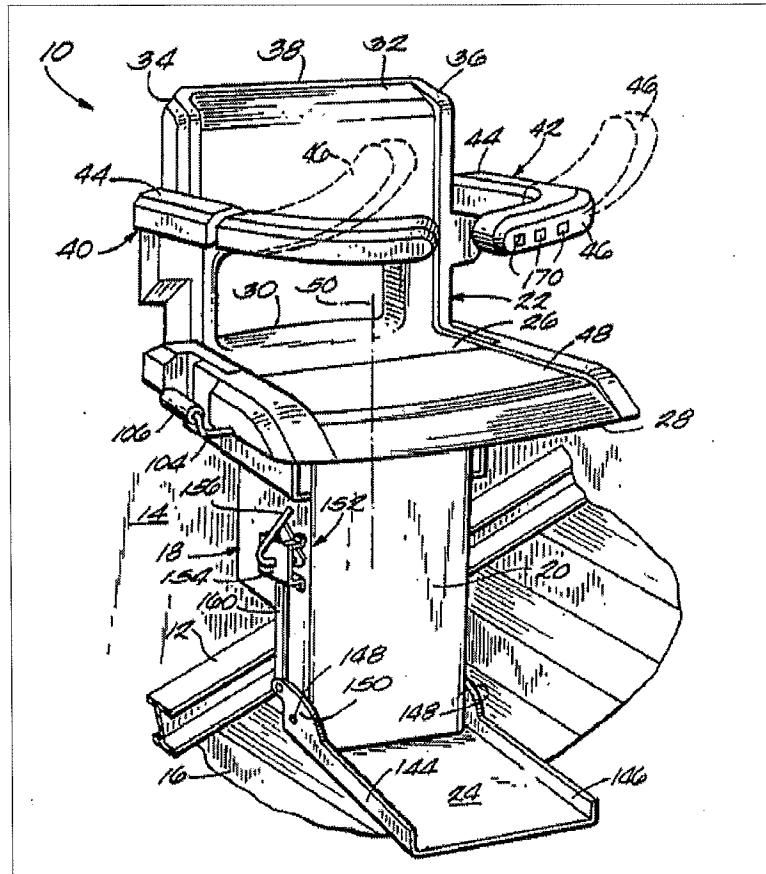
The hand control (20) is formed as a single component. Hand control (20) does not include a second component that is displaceable from the first component. It therefore cannot disclose a hand control having two components that are displaceable from **both** each other and the armrest. Clearly the hand control of Tasker does not fall within the scope of present claim 12 (or claim 13). Therefore the Examiner's rejection must be overturned.

*Votes:*

The Examiner rejects claims 12 and 13 under 102(b) in view of Voves. The Examiner's statement of rejection reveals that he is confused by the teachings of Voves.

First, the Examiner cites control buttons (170) as providing the hand control limitations of the present claims. Second the Examiner indicates that the hand control of the claims is Voves armrest (46) and a mystery “mounting part” (?). Third and finally the Examiner apparently indicates that somehow all of Voves’ hand control buttons (170), armrest (46), and the mystery “mounting part” (?) meet the limitations of the hand control of the present claims.

These positions are confusing and are clearly incorrect. None of the Examiner's apparent readings meet the limitations of the hand control as claimed. Voves' Fig. 1, which is reproduced below, shows control buttons 170 disposed in a moveable armrest 46.



Again, claim 12 requires an armrest and a hand control that is formed in two separate parts. The two separate parts are displaceable from each other and together are displaceable from the armrest to effect movement of the device. While the Examiner identifies one of control switches 170 as being the hand control, the Examiner fails to indicate how control button (170) is formed in two parts that are displaceable from each other and together displaceable from the armrest to effect movement of the device. Therefore the Examiner's rejection of these claims under 102(b) in view of Voves is clearly in error and should be overturned by the board.

**The 103(a) rejections:**

The Examiner makes numerous rejections of the claims as obvious under 103(a) in view of the references discussed above further in view secondary references. Applicants submit that the secondary references fail to provide the limitations that are missing as described above with regard to each of the primary references. Therefore, once the Board reverses the 102(b) rejections to the independent claims 1 and 12 the Board should likewise reverse the rejections under 103(a).

Notwithstanding the above, Applicants address individual 103(a) rejections to point out other flaws in the Examiner's reasoning. Applicants respectfully remind the Board that to support an obviousness rejection, MPEP §2143.03 requires "all words of a claim to be considered" and MPEP § 2141.02 requires consideration of the "[claimed] invention and prior art as a whole." Further, the Board recently confirmed that a proper, post-KSR obviousness determination still requires the Office make "a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art." *In re Wada and Murphy*, Appeal No. 2007-3733 (BPAI, Jan. 14, 2008), citing *In re Ochiai*, 37 USPQ2d 1127 (Fed. Cir. 1995) and *CFMT v. Yieldup Intern. Corp.*, 68 USPQ2d 1940 (Fed. Cir. 2003).

Furthermore, Applicants respectfully remind the Board that "[a] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." *KSR Int'l v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). To find obviousness, the Examiner is required to "identify a reason that would have prompted a

person of ordinary skill in the art in the relevant field to combine the elements in the way the claimed new invention does.” *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, No. 04-1616 (CAFC March 22, 2006) citing *In re Lee*, 277 F.3d 1338, 1343-46 (Fed. Cir. 2002); and *In re Rouffett*, 149 F. 3d 1350, 1355-59 (Fed. Cir. 1998). “When the [Examiner] does not explain motivation, or the suggestion or teaching, that would have led the skilled artisan at the time of the invention to the claimed combination as a whole, [it is] infer[red] that the [Examiner] used hindsight to conclude that the invention was obvious.” *Id.* Additionally, “[a]lthough the suggestion to combine references may flow from the nature of the problem, ‘[d]efining the problem in terms of its solution reveals improper hindsight in the selection of prior art relevant to obviousness.’” (internal citation omitted) *Id.*, quoting *Monarch Knitting Mach. Corp. V. Sulzer Morat GmbH*, 139 F.3d 877, 881 (Fed. Cir. 1998); *In re Beattie*, 974 F.2d 1309, 1312 (Fed. Cir. 1992).

#### **(8) - (9): The 103(a) rejections of claim 2.**

Claim 2 is rejected as obvious under 103(a) over Ooms in view of Altorf and under 103(a) over Watkins in view of Altorf. Again Applicants submit once the rejections to claim 1 are overcome, so to will the rejection to dependent claim 2. However, Applicants further submit that even if a rejection to claim 1 is sustained, which it should not be, dependent claim 2 is separately patentable in its present form.

Applicants note that the Examiner argues that Altorf shows a stairlift chair with an armrest 11 which pivots about a vertical axis 14. This reading of Altorf is clearly in error. Altorf’s pivot axis 14 is a horizontal and not a vertical axis. Further, any displacement of the armrest 11 about the axis 14 does not effect displacement of the stairlift. **Therefore, notwithstanding any other argument provided in this paper, claim 2 is patentable in and of itself in its present form.**

**(10) - (11): The 103(a) rejections to claim 5.**

Claim 5 is rejected as obvious under 103(a) over Ooms in view of Grippi and under 103(a) over Watkins in view of Grippi. Grippi fails to make up the deficiencies in either Ooms or Watkins. Applicants submit that claim 5 is dependent upon a patentable base claim (e.g. claim 1). Once claim 1 is found to be allowable, so too should claim 5.

**(12): The 103(a) rejections to claims 7, 12, and 13.**

Claims 7, 12, and 13 are rejected as obvious under 103(a) over Ooms in view of Grippi. Applicants submit that claim 7 is dependent upon a patentable base claim (e.g. claim 1). Once claim 1 is found to be allowable, so too should claim 7. Furthermore, Watkins simply shows optional control buttons in the same way as does Voves. Neither Watkins, nor Grippi, disclose that one of those buttons could be formed in two parts, which two parts, when displaced relative to one another, could effect a different control function. All claims 7, 12, and 13 are in form for allowance.

**(13) - (14): The 103(a) rejections to claim 11.**

Claim 11 is rejected as obvious under 103(a) over Ooms or Decelles. As discussed above, both Ooms and Decelles fail to provide the limitations of parent claim 1 and therefore fail to provide the limitations of its dependent claim 11. Once claim 1 is found to be allowable, so too should claim 11.

**(15) - (16): The 103(a) rejections to claim 15.**

Claim 15 is rejected as obvious under 103(a) over Watkins in view of Muranka (US 6,679,353) and under 103(a) over Ooms in view of Muranka. Muranka fails to fill in the missing parts of the primary references as discussed above. Applicants therefore respectfully submit that claim 15 is dependent upon a patentable base claim (e.g. claim 1). Once claim 1 is found to be allowable, so too should claim 15.

For these reasons, Applicant requests the Board to overturn all of the Examiner's rejections and Applicant submits that this application is now considered to be in condition for allowance. Such actions are earnestly solicited. Applicants request a two-month extension of time to make this paper timely filed and enclose herewith the fee.

Respectfully Submitted,



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**Claims Appendix:**

1. A stairlift chair including a pair of armrests, each of the said armrests having an upper surface; and a hand control mounted on one of said armrests and being displaceable with respect to the armrest on which the hand control is mounted to effect movement of a stairlift on which the stairlift chair is mounted, wherein said hand control is, in normal use, angled upwardly out of a plane defined by the upper surface of the armrest to which said hand control is attached, said hand control having a substantially planar palm contacting surface which forms a substantial extension of the plane of said upper surface the armrest to which said hand control is mounted.
2. A stairlift chair as claimed in claim 1 wherein said hand control is pivotable with respect to said armrest about a substantially vertical axis.
4. A stairlift chair as claimed in claim 1 wherein said hand control has side surfaces aligned substantially perpendicularly to said palm contacting surface.
5. A stairlift chair as claimed in claim 1 wherein said one of said armrests has a longitudinal axis, the position of said control interface being adjustable along said longitudinal axis.
7. A stairlift chair as claimed in claim 1 wherein said hand control comprises a power isolation switch.
10. The stairlift chair of claim 1, where the hand control further comprises side surfaces configured to permit smooth contact by the side of a user's hand.
11. The stairlift chair of claim 1, wherein said palm contacting surface is constructed and arranged to underlie at least 50% of the area of a user's palm.

12. A stairlift comprising a stairlift chair, said chair having a pair of armrests; a manually engageable and displaceable hand control mounted on one of said armrests and being displaceable with respect to the armrest on which it is mounted to effect movement of said stairlift, said hand control including a body member engageable by a user's hand wherein said body member is formed in two parts which are displaceable with respect to one another such that, in a first configuration of said two parts, said hand control is inactive.

13. A stairlift as claimed in claim 12 wherein, when said body parts are in said first configuration, the resulting form of said body differs visually and/or provides a different tactile sensation to the user's hand than when said body parts are in an operative configuration.

15. A stairlift chair as claimed in claim 1 wherein a sensor is provided to sense when a user is occupying said chair, said sensor being further operable to isolate and energise said hand operated control.

**Evidence Appendix**

None

**Related Proceedings Appendix**

None